

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Henry Dacey,

Complainant

against

Docket # FIC 2017-0220

Chairman, Board of Education,
Easton Public Schools; and
Board of Education, Easton
Public Schools,

Respondents

January 10, 2018

The above-captioned matter was heard as a contested case on June 9, 2017, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. By email received on April 19, 2017, the complainant alleged that the respondents violated certain meetings provisions under the Freedom of Information (“FOI”) Act with respect to its March 16, 2017 special meeting. Specifically, the complainant alleged that the respondents improperly added an item (*i.e.*, executive session) to the special meeting agenda, and entered into executive session for an improper purpose.
3. At the hearing, the respondents moved that this complaint be dismissed because the Commission lacks jurisdiction due to the complainant’s alleged failure to timely file his complaint.
4. Section 1-206(b)(1), G.S., provides, in relevant part:

Any person denied the right to inspect or copy records under section 1-210 or wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed not later than thirty

days after such denial, except in the case of an unnoticed or secret meeting, in which case the appeal shall be filed not later than thirty days after the person filing the appeal receives actual or constructive notice that such meeting was held.

5. Section 1-200(2), G.S., defines a “meeting” as:

any hearing or other proceeding of a public agency, any convening or assembly of a quorum of a multimember public agency, and any communication by or to a quorum of a multimember public agency, whether in person or by means of electronic equipment, to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power....

6. It is found that the respondents held a special meeting on March 16, 2017.

7. It is found that the agenda for the March 16, 2017 special meeting was properly noticed. The complainant does not dispute such fact.

8. It is found that such meeting was neither secret nor unnoticed, within the meaning of §1-206(b)(1), G.S.

9. It is found that the notice of appeal in this matter was filed more than thirty days after the March 16, 2017 special meeting, in accordance with the provisions of §1-206(b)(1), G.S.

10. It is therefore concluded that the Commission lacks subject matter jurisdiction in this matter.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The complaint is hereby dismissed for lack of subject matter jurisdiction.

Approved by Order of the Freedom of Information Commission at its regular meeting of January 10, 2018.



Cynthia A. Cannata
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

HENRY DACEY, 257 Redding Road, Easton, CT 06612

CHAIRMAN, BOARD OF EDUCATION, EASTON PUBLIC SCHOOLS; AND BOARD OF EDUCATION, EASTON PUBLIC SCHOOLS, c/o Attorney Henry J. Zaccardi, Shipman and Goodwin LLP, One Constitution Plaza, Hartford, CT 06103



Cynthia A. Cannata
Acting Clerk of the Commission